

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SWINOMISH INDIAN TRIBAL
COMMUNITY, a federally recognized Indian
Tribe,

Plaintiff,

V.

BNSF RAILWAY COMPANY, a Delaware corporation,

Defendant.

NO. 2:15-cv-00543-RSL

STIPULATION AND ORDER
REGARDING JUDICIAL NOTICE OF
DOCKET FILINGS

The parties stipulate that the Court take judicial notice of relevant documents and orders as a matter of public record in the case docket and as part of the Ninth Circuit proceedings. *Lee v. City of L.A.*, 250 F.3d 668, 690 (9th Cir. 2001); *Umouyo v. Bank of Am.*, No. 2:16-CV-01576-RAJ, 2019 WL 1568423, at *1 (W.D. Wash. Apr. 11, 2019) (issuing findings of fact and conclusions of law in bench trial and stating “as the Court previously noted the parties, the Court takes judicial notice of the records filed on the public docket in this matter.”) (Jones, J.). Judicial notice would be limited to the existence of the filings and acknowledging their contents, without accepting as true any of the representations or contents therein.

Specifically, the parties stipulate that the Court take judicial notice of the following

1 materials:

2 **Docket entries filed in this Court:**

3	Dkt. 1	April 7, 2015 Complaint (Dkt. 1)
4	Dkt. 8	May 14, 2015 Defendant BNSF Railway Company's Motion to Dismiss or Stay (Dkt. # 008)
5	Dkt. 11	June 1, 2015 Response to Motion to Dismiss or Stay (Dkt. 11)
6	Dkt. 13	June 5, 2015 Reply in Support of Defendant BNSF Railway Company's Motion to Dismiss or Stay (Dkt. # 013)
7	Dkt. 19	September 11, 2015 Order Denying Defendant's Motion to Dismiss or Stay (Dkt. # 019)
8	Dkt. 21	September 25, 2015 BNSF Railway Company's Answer to Complaint for Declaratory Judgment, Injunctive Relief, Trespass, and Breach of Contract (Dkt. # 021)
9	Dkt. 22	September 2, 2015 Hearing Transcript (filed October 2, 2015) (Dkt. 22)
10	Dkt. 23	October 19, 2015 BNSF Railway Company's Amended Answer to Complaint for Declaratory Judgment, Injunctive Relief, Trespass, and Breach of Contract (Dkt. # 023)
11	Dkt. 31	March 10, 2016 Motion for Summary Judgment (Dkt. 31)
12	Dkt. 58	July 21, 2016 Amended Motion for Summary Judgment (Dkt. 58)
13	Dkt. 63	August 8, 2016 BNSF Railway Company's Cross-Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment (Dkt. # 063)
14	Dkt. 65	August 24, 2016 Response to Cross Motion for Summary Judgment (Dkt. 65)
15	Dkt. 68	September 2, 2016 BNSF Railway Company's Reply in Support of Cross-Motion for Summary Judgment (Dkt. # 068)
16	Dkt. 75	January 13, 2017 Order Regarding Cross-Motions for Summary Judgment (Dkt. # 075)
17	Dkt. 77	January 27, 2017 Motion for Reconsideration (Dkt. 77)
18	Dkt. 79	February 7, 2017 BNSF's Opposition to Plaintiff's Motion for Reconsideration (Dkt. # 079)
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1	Dkt. 80	February 10, 2017 Reply in Support of Motion for Reconsideration (Dkt. 80)
2	Dkt. 81	December 15, 2016 Hearing Transcript (filed March 2, 2017) (Dkt. 81)
3	Dkt. 85	June 8, 2017 Order Granting Plaintiff's Motion for Reconsideration (Dkt. # 085)
4	Dkt. 88	June 22, 2017 BNSF Railway Company's Motion for Clarification and, if Necessary, Reconsideration (Dkt. # 088)
5	Dkt. 91	August 14, 2017 Response to Motion for Reconsideration or Clarification (Dkt. 91)
6	Dkt. 92	August 18, 2017 Reply in Support of BNSF Railway Company's Motion for Clarification and, if Necessary, Reconsideration (Dkt. # 092)
7	Dkt. 93	March 15, 2018 Order Clarifying Previous Order and Denying Defendant's Motion for Reconsideration (Dkt. # 093)
8	Dkt. 96	March 29, 2018 BNSF Railway Company's Motion for Certification Pursuant to 28 U.S.C. § 1292(b) and to Stay Proceedings (Dkt. # 096)
9	Dkt. 101	April 19, 2018 Response to Motion to Certify or Stay Proceedings (Dkt. 101)
10	Dkt. 102/102-1	April 27, 2018 Reply in Support of BNSF Railway Company's Motion for Certification Pursuant to 28 U.S.C. § 1292(b) and to Stay Proceedings with Exhibit A (Dkt. # 102/102-1)
11	Dkt. 125	August 31, 2020 BNSF Railway Company's Answer to First Amended Complaint for Declaratory Judgment, Injunctive Relief, Trespass, Breach of Contract, and Restitution (Dkt. # 125)

18 **Docket entries and records in the Ninth Circuit:**

19	Dkt. 11	November 14, 2018 Opening Brief for Defendant-Appellant BNSF Railway Company (Ninth Circuit Dkt. # 011)
20	Dkt. 28	January 7, 2019 Appellee's Answering Brief (9th Cir. Dkt. 28)
21	Dkt. 44	January 31, 2018 Reply Brief for Defendant-Appellant BNSF Railway Company (Ninth Circuit Dkt. # 044)
22		May 14, 2019 Oral Argument Hearing (video recording provided by Ninth Circuit) available at https://www.ca9.uscourts.gov/media/video/?20190514/18-35704/
23	Dkt. 53	May 22, 2019 Ninth Circuit Order (9th Cir. Dkt. 53)

1	Dkt. 56	June 19, 2019 BNSF Letter Brief (9th Cir. Dkt. 56)
2	Dkt. 57	July 1, 2019 Swinomish Indian Tribal Community Letter Brief (9th Cir. Dkt. 57)
3	Dkt. 68	April 22, 2022 Order Denying Petition for Rehearing or Rehearing En Banc (9th Cir. Dkt. 68)
4	Dkt. 111 (District Court)	March 4, 2020 Ninth Circuit Opinion (Dkt. # 111)

7 DATED this 13th day of March, 2023.

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Attorneys for Defendant BNSF Railway Company

1 PURSUANT TO THE ABOVE STIPULATION, THE COURT ORDERS that the Court
2 will take judicial notice of the above-identified docket entries and records at trial.
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4 IT IS SO ORDERED.
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6 Dated this 13th day of March, 2023.
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9 Robert S. Lasnik
10 United States District Judge
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